IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 289 of 1984

in

SPECIAL CIVIL APPLICATIONNo 3785 of 1982

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI
and
Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

STATE OF GUJARAT

Versus

I D UPADYAIYA

Appearance:

MR M.S.RAO, AGP for the Appellants

MR DD VYAS for Respondent No. 1-4 - Absent

RULE UNSERVED for Respondent No. 5

RULE SERVED for Respondent No. 6-8

CORAM : MR.JUSTICE R.K.ABICHANDANI
and
MR.JUSTICE K.M.MEHTA

Date of decision: 06/08/2003

ORAL JUDGEMENT

(Per : MR.JUSTICE R.K.ABICHANDANI)

1. The appeal is directed against the judgement and order dated 22nd February 1984 of the learned Single Judge in Special Civil Application No.3785 of 1982, by which a direction was given to the appellants to consider the cases of the respondents - original petitioners for promotion to the post of police inspector.

2. It is contended before us that the persons, who were junior to the petitioners, were so promoted, because, they belonged to schedule caste / schedule tribe categories and their promotions were made in view of the resolution dated 31st January 1976 and therefore, the grievance of the original petitioners about not having been considered for promotion was not justified. It was submitted that no direction could have been given by the learned Single Judge for considering the cases of the original petitioners for promotion without examining whether their cases were due for promotion or not.

3. The learned Single Judge took note of the fact that the original petitioners No.1 and 2 were appointed as police inspector on 1-1-1969 by direct recruitment and the original petitioners No.3 and 4 were appointed as departmental nominees on that very day. The promotion to the higher post of police inspector was to be made on the criteria of seniority-cum-merit. According to the petitioners, when the cases of their juniors were considered for promotion, they were left out of consideration. In the affidavit-in-reply, it was contended that the petitioners could be promoted only as per their turn in the select list. It was stated that the select list of police sub-inspectors fit for promotion promotion as police inspectors was being prepared as per the rules and in accordance with the resolution dated 31st January 1976. The select list of the officers in the general category and those belonging to the schedule castes and schedule tribes were to be prepared by the selection board and thereafter, they were to be merged into a combined select list in which the names of the selected officers belonging to the general category as well as those belonging to schedule caste

category, were being appointed in accordance of their inter-se seniority in the original seniority list.

4. The learned Single Judge held that, in view of the grievance of the petitioners that their cases were not considered at the time when their juniors were considered for promotion to the post of police inspector, they were required to be considered for promotion. The only direction which has been given by the learned Single Judge is for consideration of the cases of the petitioners and there is no direction that they should be promoted. It was for the concerned authority to take its own decision after considering the case of the petitioners as to whether they should be promoted or not. It appears that, at this distant point of time, the exercise must have been undertaken long back since there was no interim relief granted against the order of the learned Single Judge.

5. We, therefore, do not find any warrant for interfering with the impugned decision of the learned Single Judge. The appeal is, therefore, dismissed with no order as to costs.

[R.K.ABICHANDANI, J.]

[K.M.MEHTA, J.]

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